

(vi) *Exception for fallback prescription drug plans.* CMS reserves the right to deny a request from a fallback prescription drug plan as defined in § 423.855 to disenroll an individual for disruptive behavior.

(vii) *Effective date of disenrollment.* If CMS permits a PDP to disenroll an individual for disruptive behavior, the termination is effective the first day of the calendar month after the month in which the PDP gives the individual written notice of the disenrollment that meets the requirements set forth in paragraph (c) of this section.

(3) *Loss of Part D eligibility.* If an individual is no longer eligible for Part D, CMS notifies the PDP that the disenrollment is effective the first day of the calendar month following the last month of Part D eligibility.

(4) *Death of the individual.* If the individual dies,

disenrollment is effective the first day of the calendar month following the month of death.

(5) *Individual no longer resides in the PDP service area—Basis for disenrollment.* The PDP must disenroll an individual if the individual notifies the PDP that he or she has permanently moved out of the PDP service area.

(6) *Plan termination.* (i) When a PDP contract terminates as provided in § 423.507 through § 423.510, the PDP sponsor must give each affected PDP enrollee notice of the effective date of the plan termination and a description of alternatives for obtaining prescription drug coverage under Part D, as specified by CMS.

(ii) The notice must be sent before the effective date of the plan termination or area reduction, and in the timeframes specified by CMS.

(7) *Misrepresentation of third-party reimbursement.* (i) If CMS determines an individual has materially misrepresented information to the PDP sponsor as described under § 423.44(b)(2)(v), the termination is effective the first day of the calendar month after the month in which the PDP sponsor gives the individual written notice of the disenrollment that meets the requirements set forth in paragraph (c) of this section.

(ii) *Reenrollment in the PDP.* Once an individual is disenrolled from the PDP for misrepresentation of third party reimbursement, the PDP sponsor has the option to decline future enrollment by the individual in any of its PDPs for a period of time CMS specifies.

**§ 423.46 Late enrollment penalty.**

(a) *General.* A Part D eligible individual must pay the late penalty described under § 423.286(d)(3) if there is a continuous period of 63 days or longer at any time after the end of the individual's initial enrollment period during which the individual meets all of the following conditions:

(1) The individual was eligible to enroll in a Part D plan;

(2) The individual was not covered under any creditable prescription drug coverage; and

(3) The individual was not enrolled in a Part D plan.

(b) [Reserved]

**§ 423.48 Information about Part D.**

Each Part D plan must provide, on an annual basis, and in a format and using standard terminology that CMS may specify in guidance, the information necessary to enable CMS to provide to current and potential Part D eligible individuals the information they need to make informed decisions among the available choices for Part D coverage.

**§ 423.50 Approval of marketing materials and enrollment forms.**

(a) *CMS review of marketing materials.* (1) Except as provided in paragraph (a)(2) and (a)(3) of this section, a Part D plan may not distribute any marketing materials (as defined in paragraph (b) of this section), or enrollment forms, or make such materials or forms available to Part D eligible individuals, unless—

(i) At least 45 days (or 10 days if using certain types of marketing materials that use, without modification, proposed model language as specified by CMS) before the date of distribution, the Part D sponsor submits the material or form to CMS for review under the guidelines in paragraph (c) of this section; and